

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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Document # _____

UNITED STATES OF AMERICA

USCA NO. DB-3066-CR

SDNY NO. 07-CR-1015

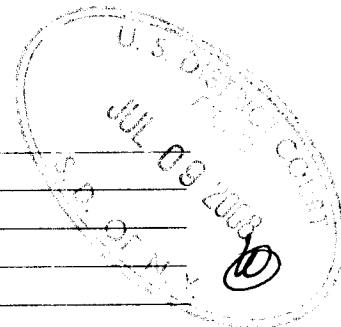
JUDGE: LEWIS KAPLAN

DATE: July 09-2008

-v-
MICHAEL DODI
AKA BRAT
AKA SUNSHINE

INDEX TO THE RECORD ON APPEAL

PREPARED BY (NAME): ERWIN ALCINDOR
FIRM: DICK BAILEY
ADDRESS: 25 CHAPEL STREET
BKLYN N.Y. 11201
PHONE NO.: 700 531 2028



DISTRICT COURT DOCKET ENTRIES 1-40

DOCUMENTS

DOC#

Clerk's Certificate

See Attached List of Numbered Documents

(☒) Original Record

(☐) Supplemental Record

The record in the above entitled case was indexed to the U.S.C.A.
for the Second Circuit on the 9 Day of July, 2008.

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA

U.S.C.A. # 08-3066-CR

U.S.D.C. # 07-CR-1015

MICHAEL DEDÉ

JUDGE: LEWIS KAPLAN

AKA BART

DATE: JULY 09-2008

AKA SUNSHINE

Clerk's Certificate

I, J. Michael McMahon, Clerk of the Court of the United States District Court for the Southern District of New York, do hereby certify that the certified copy of the docket entries and the original filed papers numbered 1 Through 40, inclusive, constitutes the Original record on appeal in the above entitled proceedings except for the following missing documents:

Date Filed

Document Description

8-3-07

AFFIDAVIT BY MICHAEL DEDÉ

1-29-08

TRANSCRIPT OF 12-20-07

In Testimony Whereof, I have caused the seal of said Court to be hereunto affixed, at the City of New York, this 9th Day of July In this year of our Lord, Two Thousand and Eight, and the Independence of the United States this 233RD year.

J. Michael McMahon, Clerk

By 
Deputy Clerk

APPEAL, CLOSED, ECF, PRIOR

**U.S. District Court
United States District Court for the Southern District of New York (Foley Square)
CRIMINAL DOCKET FOR CASE #: 1:07-cr-01015-LAK-1
Internal Use Only**

Case title: USA v. Dede
Magistrate judge case number: 1:07-mj-01252-UA

Date Filed: 11/05/2007
Date Terminated: 06/02/2008

Date Filed	#	Docket Text
07/31/2007	<u>1</u>	COMPLAINT as to Michael Dede (1) in violation of 21 U.S.C. 846 (Signed by Judge Henry B. Pitman) (gq) [1:07-mj-01252-UA] (Entered: 08/06/2007)
08/02/2007		Arrest of Michael Dede. (gq) [1:07-mj-01252-UA] (Entered: 08/06/2007)
08/02/2007	<u>3</u>	Arrest Warrant Returned Executed on 8/2/2007 as to Michael Dede. (gq) [1:07-mj-01252-UA] (Entered: 08/06/2007)
08/03/2007	* <u>4</u>	CJA 23 Financial Affidavit by Michael Dede. Approved. (Signed by Judge Henry B. Pitman) (gq) [1:07-mj-01252-UA] (Entered: 08/06/2007)
08/03/2007		Minute Entry for proceedings held before Judge Henry B. Pitman :Initial Appearance as to Michael Dede held on 8/3/2007. Deft appears with CJA atty William Devaney. AUSA William Komaroff present for the gov't. \$250,000 PRB. 2 FRP. Wife's residence. Travel restricted to SDNY, FDNY. Surrender travel documents (& no new applications). Strict pretrial supervision. Deft to be released upon following conditions: When deft & 2 cosigners execute bond. Remaining conditions to be met by 8/8/07. Preliminary Examination set for 9/4/2007 at 10:00 AM before Judge Unassigned. (gq) [1:07-mj-01252-UA] (Entered: 08/06/2007)
08/03/2007	<u>5</u>	PRB APPEARANCE Bond Entered as to Michael Dede in amount of \$250,000. Co-signed by 2 financially responsible person's. Secured by wife's residence. Travel restricted to SDNY, FDNY. Surrender travel documents (& no new applications). Strict pretrial supervision. Deft to be released upon following conditions: When deft & 2 co-signers execute bond. Remaining conditions to be met by 8/8/07. (gq) [1:07-mj-01252-UA] (Entered: 08/06/2007)
08/03/2007	<u>6</u>	ADVICE OF PENALTIES AND SANCTIONS as to Michael Dede. (gq) [1:07-mj-01252-UA] (Entered: 08/06/2007)
08/03/2007		Attorney update in case as to Michael Dede. Attorney William Hastings Devaney for Michael Dede added. (gq) [1:07-mj-01252-UA] (Entered: 08/15/2007)
08/03/2007	<u>10</u>	CJA 20 as to Michael Dede: Appointment of Attorney William Hastings Devaney for Michael Dede. (Signed by Judge Henry B. Pitman on 10/31/07) CJA Office Mailed the Original to Attorney, and Sent Copy to File (sac) [1:07-mj-01252-UA] (Entered: 11/06/2007)
08/10/2007	<u>7</u>	ENDORSED LETTER as to Michael Dede addressed to The Honorable Kevin N. Fox from CJA atty William H. Devaney dated 8/9/2007 re: requesting an extension of two days, until 8/10/2007 to effect the posting of his wife, Cynthia Diaz's, real property...SO ORDERED... (Signed by Judge Kevin Nathaniel Fox on 8/10/2007)(gq). [1:07-mj-01252-UA] (Entered: 08/15/2007)
09/04/2007	<u>8</u>	ORDER TO CONTINUE IN THE INTEREST OF JUSTICE as to Michael Dede. Time excluded from 9/4/07 until 10/4/07. (Signed by Judge Douglas F. Eaton on 9/4/07)(vb) [1:07-mj-01252-UA] (Entered: 09/04/2007)
10/03/2007	<u>9</u>	AFFIRMATION of Todd Blanche in Support by USA requesting a 30 day continuance from 10/4/07 to 11/5/2007 as to Michael Dede. (aba) [1:07-mj-01252-UA] (Entered: 10/09/2007)
10/04/2007		ORDER TO CONTINUE IN THE INTEREST OF JUSTICE as to Michael Dede re: 8 Order to Continue - Interest of Justice. Time excluded from 10/4/2007 until 11/5/2007. Follows oral order of 10/4/2007 (Signed by Judge Ronald L. Ellis on 10/4/2007)(aba) [1:07-mj-01252-UA] (Entered: 10/09/2007)
11/05/2007	<u>11</u>	INDICTMENT FILED as to Michael Dede (1) count(s) 1. (jm) (Entered: 11/06/2007)
11/05/2007		Case Designated ECF as to Michael Dede. (jm) (Entered: 11/06/2007)
11/09/2007		Minute Entry for proceedings held before Judge Lewis A. Kaplan :Pretrial Conference as to Michael Dede held on 11/9/2007. Dft Michael Dede present pro se. AUSA Todd Blanche present. Court rptpr present. Dft was arraigned and entered a plea of not guilty. Trial is scheduled to begin on 2/13/08. Trial is estimated to last 3 days. Discovery is complete. Dft's motion(s) due by 12/4/2007; Govt's response due by 12/11/2007; Oral Argument or conference is set for 12/20/2007 at 09:30 AM before Judge Lewis A. Kaplan. Conference regarding dft DeSimone's 7/23/07 letter concerning restitution payments held.(Court Reporter Tony Stanley) (ja) (Entered: 11/21/2007)

11/09/2007 Minute Entry for proceedings held before Judge Lewis A. Kaplan: Arraignment as to Michael Dede (1) on Count 1 held on 11/9/2007. Plea entered by Michael Dede (1) on Count 1 of Not Guilty. (Court Reporter Toni Stanley) (ja) (Entered: 11/21/2007)

11/16/2007 12 ENDORSED LETTER as to Michael Dede addressed to Judge Kaplan dated 11/15/07 re: Permission to travel to the District of Massachusetts 11/17/07 returning Saturday, 11/24/07. Application granted. (Signed by Judge Naomi Reice Buchwald Part I on 11/17/07)(pr) (Entered: 11/19/2007)

12/04/2007 14 FILING ERROR - WRONG DOCUMENT TYPE SELECTED FROM MENU - NOTICE of Motion for Production as to Michael Dede (Ewing, William) Modified on 12/5/2007 (KA). (Entered: 12/04/2007)

12/04/2007 15 FILING ERROR - WRONG DOCUMENT TYPE SELECTED FROM MENU - MOTION to Produce (Memorandum of Law in Support of) Document filed by Michael Dede (Attachments: # 1 Exhibit A)(Ewing, William) Modified on 12/5/2007 (KA). (Entered: 12/04/2007)

12/05/2007 NOTE TO ATTORNEY TO RE-FILE DOCUMENT - DOCUMENT TYPE ERROR Note to Attorney William Carl Ewing, Jr. as to Michael Dede: to RE-FILE Document 14 Notice (Other). Use the document type Motion Produce found under the document list Motions. (KA) (Entered: 12/05/2007)

12/05/2007 NOTE TO ATTORNEY TO RE-FILE DOCUMENT - DOCUMENT TYPE ERROR Note to Attorney William Carl Ewing, Jr. as to Michael Dede: to RE-FILE Document 15 MOTION to Produce (Memorandum of Law in Support of). Use the document type Memorandum of Law in Support of Motion found under the document list Replies, Opposition and Supporting Documents. (KA) (Entered: 12/05/2007)

12/05/2007 16 MOTION to Produce. Document filed by Michael Dede. (Ewing, William) (Entered: 12/05/2007)

12/05/2007 17 MEMORANDUM in Support by Michael Dede re 16 MOTION to Produce.. (Attachments: # 1 Exhibit A)(Ewing, William) (Entered: 12/05/2007)

12/05/2007 18 Certificate of Service of 16 MOTION to Produce., 15 MOTION to Produce (*Memorandum of Law in Support of*), 17 Memorandum in Support of Motion, 14 Notice (Other) by Michael Dede. Document was served on USA on 12/4/2007 12/05/2007. Service was accepted by AUSA Todd Blanche. (Ewing, William) (Entered: 12/05/2007)

12/11/2007 19 MEMORANDUM in Opposition by USA as to Michael Dede re 16 MOTION to Produce.. (Blanche, Todd) (Entered: 12/11/2007)

12/20/2007 20 ORDER as to Michael Dede. Dft's motion (D116) is denied in all respects. Dft failed to comply with SDNY Crim. R. 16.1. Alternatively, the motion is denied substantially for the reasons set forth in the govt's opposition except as to the matter raised in Point II of dft's memorandum, which is denied on the ground of mootness. The Court excludes time from this date until 2/13/08 for Speedy Trial Act purposes.... including the dft's interests in investigating the govt's cooperating witnesses and preparing for trial.... SO ORDERED. (Signed by Judge Lewis A. Kaplan on 12/20/07)(ja) (Entered: 12/20/2007)

12/20/2007 Minute Entry for proceedings held before Judge Lewis A. Kaplan: Status Conference as to Michael Dede held on 12/20/2007. Oral argument on discovery motion heard. Dft Michael Dede present with atty's Liam Ewing and William H. Devaney. AUSA Todd Blanche present. Court reporter Steve Greenblum present. Dft's motion denied. (jw) (Entered: 01/18/2008)

01/29/2008 21 TRANSCRIPT of Proceedings as to Michael Dede held on 12/20/07 before Judge Lewis A. Kaplan. (ja) (Entered: 01/30/2008)

02/01/2008 22 PROPOSED EXAMINATION OF JURORS by USA as to Michael Dede. (Blanche, Todd) (Entered: 02/01/2008)

02/01/2008 23 Request To Charge by USA as to Michael Dede. (Blanche, Todd) (Entered: 02/01/2008)

02/01/2008 24 Proposed Voir Dire Questions by Michael Dede. (Ewing, William) (Entered: 02/01/2008)

02/01/2008 25 Proposed Jury Instructions by Michael Dede. (Ewing, William) (Entered: 02/01/2008)

02/04/2008 26 ENDORSED LETTER as to Michael Dede addressed to Judge Kaplan from Attorney William H. Devaney/Liam C. Ewing, Jr., dated 1/31/08 re: submitted to enclose two subpoenas which counsel request be "So Ordered" by the Judge. The reason that counsel request this from the Judge is because the subpoenas are to be issued to the MDC-Brooklyn and the Queens Detention Center. ENDORSEMENT: Denied without prejudice to renewal on notice to the government. (Signed by Judge Lewis A. Kaplan on 2/4/08)(bw) (Entered: 02/05/2008)

02/13/2008 Minute Entry for proceedings held before Judge Lewis A. Kaplan: Voir Dire begun on 2/13/2008 Michael Dede (1) on Count 1. Defendant present with attys William Devaney and William Carl Ewing. AUSAs John Hillebrecht and Todd Blanche present. Court reporters Jennifer Thun and Rebecca Forman present. Jury selection begun and concluded. Trial begun and adjourned to 2/14/08 (jw) (Entered: 02/26/2008)

02/13/2008 Minute Entry for proceedings held before Judge Lewis A. Kaplan: Jury Selection as to Michael Dede held on 2/13/2008 (jw) (Entered: 02/26/2008)

02/13/2008 Minute Entry for proceedings held before Judge Lewis A. Kaplan: Jury Trial as to Michael Dede held on 2/13/2008 (jw) (Entered: 02/26/2008)

02/14/2008 Minute Entry for proceedings held before Judge Lewis A. Kaplan: Jury Trial as to Michael Dede held on 2/14/2008. Government rested. Defendant's case begun and rested. Charge conference held and trial adjourned to 2/19/08 (jw) (Entered: 02/26/2008)

02/19/2008 Minute Entry for proceedings held before Judge Lewis A. Kaplan: Jury Trial as to Michael Dede held on 2/19/2008. Closing arguments heard. Jury started deliberations begun and adjourned on 2/20/2008. (jw) (Entered: 02/26/2008)

02/20/2008 Minute Entry for proceedings held before Judge Lewis A. Kaplan: Jury Trial as to Michael Dede held on 2/20/2008. Jury deliberations continued. Defendant moved for a mistrial which was denied by the Court. (jw) (Entered: 02/26/2008)

02/21/2008 27 ORDER as to Michael Dede. The defendant is ordered remanded into the custody of the US Marshal. SO ORDERED. (Signed by Judge Lewis A. Kaplan on 2/21/08)(jw) (Entered: 02/22/2008)

02/21/2008 Minute Entry for proceedings held before Judge Lewis A. Kaplan: Jury Trial as to Michael Dede held on 2/21/2008. Jury deliberations continued and concluded. Defendant moved for a mistrial which was denied by the Court. a verdict of **guilty** was returned and the jury found that the government proved beyond a reasonable doubt that the conspiracy involved an agreement to distribute or possess with the intent to distribute one kilogram or more of a mixture or substance containing a detectable amount of heroin. PSR was ordered and sentencing was set for 5/23/08 at 11:00am. Defendant was remanded. (jw) (Entered: 02/26/2008)

02/21/2008 JURY VERDICT as to Michael Dede (1) Guilty on Count 1. (jw) (Entered: 02/27/2008)

02/21/2008 Order of Referral to Probation for Presentence Investigation and Report as to Michael Dede. (Signed by Judge Lewis A. Kaplan on 2/21/08)(jw) (Entered: 02/27/2008)

02/21/2008 Minute Entry for proceedings held before Judge Lewis A. Kaplan: as to Michael Dede: Sentencing set for 5/23/2008 at 11:00 AM before Judge Lewis A. Kaplan. (jw) (Entered: 02/27/2008)

03/11/2008 *28 TRANSCRIPT of Proceedings as to Michael Dede held on 2/13, 14, 19, 20, 21, 2008 before Judge Lewis A. Kaplan. (ama) (Entered: 03/11/2008)

05/12/2008 29 SENTENCING MEMORANDUM by Michael Dede. (Ewing, William) (Entered: 05/12/2008)

05/12/2008 30 SENTENCING MEMORANDUM by Michael Dede. (Ewing, William) (Entered: 05/12/2008)

05/12/2008 31 SENTENCING MEMORANDUM by Michael Dede. (Ewing, William) (Entered: 05/12/2008)

05/13/2008 32 Certificate of Service of 30 Sentencing Memorandum, 31 Sentencing Memorandum, 29 Sentencing Memorandum by Michael Dede. Document was served on United States Attorney Todd Blanche on May 12, 2008. (Ewing, William) (Entered: 05/13/2008)

05/19/2008 33 SENTENCING MEMORANDUM by USA as to Michael Dede. (Blanche, Todd) (Entered: 05/19/2008)

05/21/2008 34 OBJECTION TO PRESENTENCE INVESTIGATION REPORT by Michael Dede. (Ewing, William) (Entered: 05/21/2008)

06/02/2008 Minute Entry for proceedings held before Judge Lewis A. Kaplan: Sentencing held on 6/2/2008 for Michael Dede (1) Count 1. (jw) (Entered: 06/02/2008)

06/02/2008 36 FILED JUDGMENT IN A CRIMINAL CASE as to Michael Dede (1). Found guilty to Count(s) 1. Imprisonment for a total term of 188 Months. Supervised release for a term of 5 Years with the special condition that the defendant report to the nearest probation office within 72 hours after his release from custody. The Court makes the following recommendations to the Bureau of Prisons: That consistent with the defendant's security classification, that he be designated to a facility as close to the New York Metropolitan area as possible. Special Assessment of \$100 which is due immediately. (Signed by Judge Lewis A. Kaplan on 6/2/08)(jw) (Entered: 06/02/2008)

06/02/2008 Judgment entered in money judgment book as #08,0970 as to Michael Dede in the amount of \$ 100.00, re: 36 Judgment. (dt) (Entered: 06/05/2008)

06/05/2008 38 FILING ERROR - ELECTRONIC FILING FOR NON-ECF DOCUMENT - NOTICE of Appeal as to Michael Dede re: 36 Judgment,.. (Ewing, William) Modified on 6/16/2008 (kkc). (Entered: 06/05/2008)

06/16/2008 39 NOTICE OF APPEAL by Michael Dede from 36 Judgment. (CJA appointed attorney - no fee due). (nd) (Entered: 06/17/2008)

06/17/2008 Transmission of Notice of Appeal and Certified Copy of Docket Sheet as to Michael Dede to US Court of Appeals re: 39 Notice of Appeal - Final Judgment. (nd) (Entered: 06/17/2008)

06/18/2008 40 TRANSCRIPT of Proceedings as to Michael Dede held on 5/23/08 before Judge Lewis A. Kaplan. (ama) (Entered: 06/19/2008)

07/02/2008 Payment of Fine from Michael Dede in the amount of \$100.00. Date Received: 7/2/08. (nn) (Entered: 07/02/2008)